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DEC 04 2003

OFFICE OF PETITIONS

In re Application of	:	
Stanton B. Dotson, et al.	:	DECISION GRANTING
Application No. 09/816,660	:	PETITION UNDER
Filed: March 26, 2001	:	37 CFR 1.137(b)
Attorney Docket No. 16517.008	:	

This is a decision on the petition, filed July 23, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Holly L. Prutz appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. However, if Ms. Prutz desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is GRANTED.

The record discloses that, on March 26, 2001, the date of filing of the instant application, a Request and Certification under 35

U.S.C. § 122(b)(2)(B)(i) was filed certifying that "the invention disclosed in the attached **application has not and will not be** the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

Petitioner states that the instant nonprovisional application became the subject of an application filed in a foreign country on December 17, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for a failure to timely notify the USPTO of a foreign or international filing within 45 days after August 28, 2002, the date of filing of such foreign or international application.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

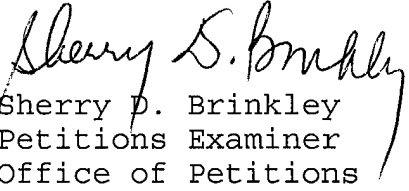
The previous Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

In view of the Petition for Express Abandonment Under 37 CFR 1.138(c) filed July 23, 2003, this application is being revived

for the purposes of continuity only with the continuing applications purportedly filed May 14, 2003 and July 2, 2003, respectively.

The petition for express abandonment has been forwarded to the Office of Publication for appropriate consideration. Thereafter, this application will be processed by Technology Center AU 1634 as an abandoned application.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.


Sherry D. Brinkley
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Office of Petitions
Office of the Deputy Commissioner
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